Single Bench

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (CG)

WRIT PETITION NO. 3763 /2005

PETITIONER
APPLICANT

Tarini Prasad Panda, aged about 26 years (Presently 34) years, son of Shri Navinchandra Panda (Upper Division Teacher), resident of village Gadhumariya, Tahsil and District Raigarh (Chhattisgarh)

**VERSUS**

RESPONDENT
NON-APPLICANT

Smt. Manisha Panda, Wife of Shri Tarini Prasad Panda, aged about 22 years (Presently 29 years), occupation – service, resident of Dharamjaigarh, Tah. Dharamjaigarh, Distt. Raigarh (Chhattisgarh)

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA,

(24)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**मामला क्रमांक** ....W.P.3763/.... **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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| | **31-8-2005**<br>Heard Mr. A.N. Bhakta, counsel for the petitioner, on admission.<br>The petitioner has preferred this writ petition under Article 227 of the Constitution of India, questioning the legality, propriety and correctness of the order dated 10-10-1998 passed by the 2nd Additional District Judge, Raigarh, in Civil Suit No.13-A/1996, whereby learned Additional District Judge has rejected the application of the petitioner for amendment in the suit.<br>Perusal of the impugned order shows that on earlier occasion in Civil Suit No.8-A/94, the petitioner herein admitted the legality of the marriage and now, by the amendment which he is seeking he is challenging the legality of the marriage. In the instant suit also, the petitioner admitted the legality of the marriage, and now by seeking deletion of the same he wants to insert by way of amendment that the marriage was not valid.<br>I do not find any illegality or infirmity in the order impugned for the reason that if the instant amendment is allowed, then it will change the nature of the suit in question. Secondly, the suit has been filed for granting divorce under Section 13 of the Hindu Marriage Act, 1955, on the ground of adultery, whereas, by amendment, the petitioner wants to challenge the legality of the marriage, which is not covered under Section 13 of the Hindu Marriage Act, 1955, and for that purpose he is required to file a suit for nullity of the marriage.<br>In view of the above, the writ petition is without any substance, same is liable to be dismissed and it is accordingly, dismissed, in limine.<br>Consequently, M.(W.)P.No.3168/2005 & I.A.No.7054/2005 stand disposed of.<br>Sd/-<br>L.C.BHADOO<br>Judge | |

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